

	UNITED STATES DISTRICT COURT	
	DISTRICT OF NEVADA	
3	ALLEN HORTON, II,	Case No. 3:21-cv-00280-LRH-CLB
4	Plaintiff	ORDER
5	v.	
6	WILLIAM GITTERE, et al.,	
7	Defendants	
8		

9           **I. DISCUSSION**

10           On January 18, 2022, the Court issued a screening order permitting two claims to  
 11 proceed and dismissing some claims with leave to amend and some claims with  
 12 prejudice. (ECF No. 5). The Court granted Plaintiff 30 days from the date of that order to  
 13 file an amended complaint curing the deficiencies of the complaint. (*Id.*) The Court  
 14 specifically stated that if Plaintiff chose not to file an amended complaint, the action would  
 15 proceed against only Dr. Hanf. (*Id.* at 18–19). Plaintiff has not filed an amended complaint.  
 16 Pursuant to the screening order, this action will proceed against only Dr. Hanf on two  
 17 claims: (1) Eighth Amendment deliberate indifference to serious medical needs (failure to  
 18 follow doctor's orders) and (2) Eighth Amendment deliberate indifference to serious  
 19 medical needs (failure to transfer to another facility).

20           **II. CONCLUSION**

21           For the foregoing reasons, IT IS ORDERED that, pursuant to the Court's screening  
 22 order (ECF No. 5), this action will proceed against Dr. Hanf only.

23           It is further ordered that given the nature of the claims that the Court has permitted  
 24 to proceed, this action is stayed for 90 days to allow Plaintiff and Defendant an opportunity  
 25 to settle their dispute before the \$350.00 filing fee is paid, an answer is filed, or the  
 26 discovery process begins. During this 90-day stay period and until the Court lifts the stay,  
 27 no other pleadings or papers may be filed in this case, and the parties will not engage in  
 28 any discovery, nor are the parties required to respond to any paper filed in violation of the

1 stay unless specifically ordered by the Court to do so. The Court will refer this case to the  
2 Court's Inmate Early Mediation Program, and the Court will enter a subsequent order  
3 about mediation. Regardless, on or before 90 days from the date this order is entered,  
4 the Office of the Attorney General will file the report form attached to this order regarding  
5 the results of the 90-day stay, even if a stipulation for dismissal is entered prior to the end  
6 of the 90-day stay. If the parties proceed with this action, the Court will then issue an  
7 order setting a date for Defendant to file an answer or other response. Following the filing  
8 of an answer, the Court will issue a scheduling order setting discovery and dispositive  
9 motion deadlines.

10         It is further ordered that "settlement" may or may not include payment of money  
11 damages. It also may or may not include an agreement to resolve Plaintiff's issues  
12 differently. A compromise agreement is one in which neither party is completely satisfied  
13 with the result, but both have given something up and both have obtained something in  
14 return.

15         It is further ordered that if the case does not settle, Plaintiff will be required to pay  
16 the full \$350.00 statutory filing fee for a civil action. This fee cannot be waived, and the  
17 fee cannot be refunded once the Court enters an order granting Plaintiff's application to  
18 proceed *in forma pauperis*. If Plaintiff is allowed to proceed *in forma pauperis*, the fee will  
19 be paid in installments from his prison trust account. See 28 U.S.C. § 1915(b). If Plaintiff  
20 is not allowed to proceed *in forma pauperis*, the full \$350 statutory filing fee for a civil  
21 action plus the \$52 administrative filing fee, for a total of \$402, will be due immediately.

22         It is further ordered that if any party seeks to have this case excluded from the  
23 inmate mediation program, that party will file a "motion to exclude case from mediation"  
24 no later than 21 days prior to the date set for mediation. The responding party will have 7  
25 days to file a response. No reply will be filed. Thereafter, the Court will issue an order, set  
26 the matter for hearing, or both.

27         It is further ordered that if Plaintiff needs a translator to participate in the mediation  
28 program, Plaintiff will file a notice identifying the translation language and the need for the

1 translator within 30 days from the date of this order.

2 It is further ordered that the Clerk of the Court will electronically serve a copy of  
3 this order, the original screening order (ECF No. 5) and a copy of Plaintiff's complaint  
4 (ECF No. 6) on the Office of the Attorney General of the State of Nevada, by adding the  
5 Attorney General of the State of Nevada to the docket sheet. This does not indicate  
6 acceptance of service.

7 It is further ordered that the Attorney General's Office will advise the Court within  
8 21 days of the date of the entry of this order whether it will enter a limited notice of  
9 appearance on behalf of Defendants for the purpose of settlement. No defenses or  
10 objections, including lack of service, will be waived because of the filing of the limited  
11 notice of appearance.

12 DATED THIS 23rd day of February 2022.

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15 United States Magistrate Judge  
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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

**ALLEN HORTON, II,**

## Plaintiff

Case No. 3:21-cv-00280-LRH-CLB

**REPORT OF ATTORNEY GENERAL  
RE: RESULTS OF 90-DAY STAY**

v.

WILLIAM GITTERE, *et al.*,

## Defendants

**NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS FORM.  
THE INMATE PLAINTIFF SHALL NOT FILE THIS FORM.**

On \_\_\_\_\_ [*the date of the issuance of the screening order*], the Court issued its screening order stating that it had conducted its screening pursuant to 28 U.S.C. § 1915A, and that certain specified claims in this case would proceed. The Court ordered the Office of the Attorney General of the State of Nevada to file a report ninety (90) days after the date of the entry of the Court's screening order to indicate the status of the case at the end of the 90-day stay. By filing this form, the Office of the Attorney General hereby complies.

## **REPORT FORM**

[Identify which of the following two situations (identified in bold type) describes the case and follow the instructions corresponding to the proper statement.]

**Situation One: Mediated Case:** The case was assigned to mediation by a court-appointed mediator during the 90-day stay. [If this statement is accurate, check ONE of the six statements below and fill in any additional information as required, then proceed to the signature block.]

— A mediation session with a court-appointed mediator was held on \_\_\_\_\_ [enter date], and as of this date, the parties have reached a settlement (even if paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in the case until a specified date upon which they will file a stipulation of dismissal.)

— A mediation session with a court-appointed mediator was held on \_\_\_\_\_ [enter date], and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

— No mediation session with a court-appointed mediator was held during the

1                   90-day stay, but the parties have nevertheless settled the case. (*If this box  
2                   is checked, the parties are on notice that they must SEPARATELY file a  
3                   contemporaneous stipulation of dismissal or a motion requesting that the  
Court continue the stay in this case until a specified date upon which they  
will file a stipulation of dismissal.*)

4                   — No mediation session with a court-appointed mediator was held during the  
5                   90-day stay, but one is currently scheduled for \_\_\_\_\_ [enter date].

6                   — No mediation session with a court-appointed mediator was held during the  
7                   90-day stay, and as of this date, no date certain has been scheduled for  
such a session.

8                   — None of the above five statements describes the status of this case.  
9                   Contemporaneously with the filing of this report, the Office of the Attorney  
General of the State of Nevada is filing a separate document detailing the  
status of this case.

10                   \* \* \* \* \*

11                   **Situation Two: Informal Settlement Discussions Case:** The case was NOT assigned  
12                   to mediation with a court-appointed mediator during the 90-day stay; rather, the  
13                   parties were encouraged to engage in informal settlement negotiations. [If this  
statement is accurate, check **ONE** of the four statements below and fill in any additional  
information as required, then proceed to the signature block.]

14                   — The parties engaged in settlement discussions and as of this date, the  
15                   parties have reached a settlement (even if the paperwork to memorialize  
the settlement remains to be completed). (*If this box is checked, the parties  
are on notice that they must SEPARATELY file either a contemporaneous  
stipulation of dismissal or a motion requesting that the Court continue the  
stay in this case until a specified date upon which they will file a stipulation  
of dismissal.*)

18                   — The parties engaged in settlement discussions and as of this date, the  
19                   parties have not reached a settlement. The Office of the Attorney General  
therefore informs the Court of its intent to proceed with this action.

20                   — The parties have not engaged in settlement discussions and as of this date,  
21                   the parties have not reached a settlement. The Office of the Attorney  
General therefore informs the Court of its intent to proceed with this action.

22                   — None of the above three statements fully describes the status of this case.  
23                   Contemporaneously with the filing of this report, the Office of the Attorney  
General of the State of Nevada is filing a separate document detailing the  
status of this case.

24                   Submitted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by:

26                   Attorney Name: \_\_\_\_\_

Print

Signature

27                   Address: \_\_\_\_\_

Phone: \_\_\_\_\_

28                   \_\_\_\_\_

Email: \_\_\_\_\_